

LS-4158

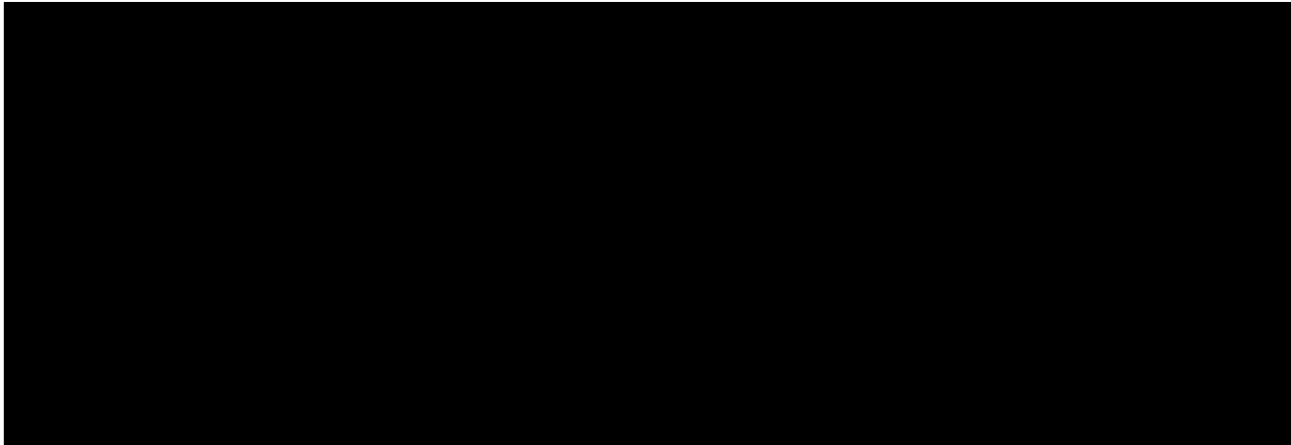
1 September 1954

OGC HAS REVIEWED.

MEMORANDUM FOR: Chief, Supply Division

SUBJECT : Storage of Agency Personnel Household Goods in Agency Depots

1. Reference is made to the original request, as supplemented by the discussion of 19 August 1954, for our comments on the proposal to utilize Agency depots for storing, on a space-available basis, the household goods of personnel transferred PCS to overseas stations. It is understood that our remarks are desired with respect to: (a) the circumstances under which the Agency may pay for non-temporary storage, and (b) the propriety of using Agency facilities for such purposes.



3. While we perceive no legal objection to the Agency's permitting the household goods of personnel to be stored in space which may be temporarily excess to its current needs, provided that the preemptive right of Agency materials and equipment to that space is always honored, we have reservations regarding the desirability of its undertaking such a program because of the potential liability it entails. It would be our view that the monetary value of claims which employees would press in the event of loss or damage, plus the deleterious effect which such incidents could have on Agency-employee relations, would prevail over the benefits contemplated. We believe that because the Agency's preemptive right to its facilities could necessitate the multiple handling of employee property and even its ultimate displacement to commercial warehouses, that the otherwise inherent risk is increased, while at the same time giving no assurance that storage costs could be reduced.

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Requiring employees to obtain personal property insurance would not solve this problem of the Agency's indeterminate liability in view of the fact that policies usually provide for the insurer to be subrogated to the rights of the insured. Thus, in a proper case, the Agency could not avoid ultimate responsibility. Moreover, it would appear that this question of insurance is purely academic since it is understood that security considerations would prevent employees from divulging the location of the storage site, in which case coverage would in all probability be unobtainable.

4. If it should be determined that CIA should engage in warehousing activities, it would be our opinion that it would be required to adhere to the same standard of care generally imposed on those similarly engaged, viz., to exercise that degree of care which a reasonable owner of similar goods would employ. Suffice to say this is merely a yardstick and the question of the Agency's culpability in a particular case would be dependent upon a consideration of all the facts and circumstances. It should be noted, however, that in order to affix Agency responsibility, an employee would not necessarily be required to affirmatively prove that the Agency failed to conform to the prescribed standard; a mere showing that the loss or damage occurred while the articles were under the control, or in the custody, of CIA would suffice in the absence of the Agency demonstrating that the loss or damage occurred notwithstanding its exercise of the required care. This burden could be an intolerable one in the event the Agency undertook a large scale storage program.

5. Under the circumstances we suggest that the Agency not use its depots for the storage of household goods except in those singular situations where its unique functions prevent it from permitting personnel to avail themselves of commercial warehouse facilities.

6. The papers are returned.

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Office of General Counsel

OGC:RJB:jk

Orig. - Addressee

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